

Rye City Planning Commission Minutes

May 13, 2003

PRESENT:

Michael Klemens, Chairman
Barbara Cummings, Vice-Chair
Peter Larr
Franklin Chu
Martha Monserrate

ABSENT:

Patrick McGunagle
Hugh Greechan

ALSO PRESENT:

Christian K. Miller, AICP, City Planner
George M. Mottarella, P.E., City Engineer
Joseph Murphy, Chairman, Conservation Commission/Advisory Council (CC/AC)
James McGee, Conservation Commission/Advisory Council (CC/AC)

I. HEARINGS

1. Walker Subdivision

Linda Whitehead (applicant's attorney) indicated that no additional information had been provided to the Commission. She added that the public hearing was held open to provide area neighbors the opportunity to provide presentation by a traffic-engineering professional regarding the proposed and alternative site access. Eric Gordon (neighbor's attorney) thanked the Commission for keeping the public hearing open and allowing the neighbors to retain a professional to review the proposed subdivision and site access. Mr. Gordon provided the Commission with a memorandum addressing comments raised at the Commission's previous meeting. The Commission did not accept the memorandum noting that it was too much to absorb the night of the hearing but indicated that it would be submitted to the official record.

Mr. Gordon summarized the content of his letter noting, in particular, that the Planning Commission has the discretion to deny an application even though the application may meet the minimum zoning information. Mr. Gordon noted that an application could be denied or modified by the Planning Commission if it has an adverse impact on health, safety or the general welfare of a community.

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1 Mr. Gordon noted that the proposed subdivision would create two additional building lots
2 and that one additional building lot would be more appropriate. He noted that one
3 additional building lot would have less site disturbance and impervious area. Mr. Gordon
4 added that the proposed subdivision might have disturbance in excess of one acre, which
5 will require the preparation of a storm water management plan pursuant to the Phase II
6 regulations. Mr. Gordon noted that the proposed driveway from Forest Avenue would have
7 an adverse impact on the neighboring properties on Rockridge Avenue and that the more
8 appropriate access would be from Manursing Way. Mr. Gordon noted that a 2-lot
9 subdivision with driveway access to Manursing Way was the more appropriate plan and
10 consistent with the applicant's original submission to the Commission.

11 Bernard Adler, P.E. (neighbor's traffic engineer) provided an overview of his experience
12 and credentials. Mr. Adler indicated that traffic counts were performed on Forest Avenue
13 and Manursing Way as well as a sight distance analysis of the proposed driveway access
14 on Forest and alternative driveway location from the property to Manursing Way. Mr. Adler
15 noted that the sight analysis was performed 10 feet back from the edge of the pavement
16 assuming the drivers' eye position of 3.5 feet.

17
18 Mr. Adler noted that there were approximately 4,800 vehicles per day on Forest Avenue
19 and approximately 700 vehicles per day on Manursing Way. Mr. Adler noted that the 85th
20 percentile speed limit was 38 miles per hour. Mr. Adler noted that peak hour traffic volume
21 on Forest Avenue was more than 3 ½ times than that on Manursing Way.

22
23 Mr. Adler provided an overview of his May 12 letter regarding sight distance. At the
24 proposed site access on Forest Avenue, Mr. Adler noted that sight distance to the right
25 met acceptable standards. Sight distance to the left, however, was only 135 feet due to an
26 obstruction of vegetation caused by a shrub that is likely on private property. Mr. Adler
27 noted that according to New York State Roadway Design Guidelines, intersection sight
28 distance is the preferred sight distance criteria. Where such sight distance cannot be
29 provided, stopping sight distance is considered acceptable. Mr. Adler noted that
30 approximately 280 feet of sight distance would be required based on prevailing travel
31 speeds on Forest Avenue and Manursing Way. Mr. Adler noted that the proposed sight
32 distance did not meet this criterion.

33
34 Mr. Adler provided an overview of the sight distance available at an alternative driveway
35 access on Manursing Way. Mr. Adler noted that approximately 220 feet of sight distance is
36 available viewing to the left and approximately 260 feet of sight distance is available
37 viewing to the right. Mr. Adler noted that sight distance to the right could be extended with
38 the removal of some existing vegetation in the Manursing Way right-of-way. Sight distance
39 to the left could not be improved due to the vertical curvature in the roadway. Mr. Adler
40 noted, however, that with the implementation of appropriate mitigation measures including
41 a concave mirror or flashing signal that a driveway access in this location would be
42 acceptable. Mr. Adler noted that a driveway access on Manursing Way was more
43 appropriate given the considerably less traffic volume on this roadway as compared to

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1 Forest Avenue. A Forest Avenue driveway would create another point of contact and
2 potential conflict on this heavily traveled roadway.

3
4 The Commission questioned Mr. Adler as to the sight distance analysis conducted by the
5 applicant with respect to a driveway located along the northern property line. Mr. Adler
6 indicated that he did not review sight distance in this location. Mr. Adler did note,
7 however, that he did not agree with the sight distance estimate provided by the applicant's
8 engineer.

9
10 Mrs. Stack (180 Forest Avenue) noted concern with the accuracy of Mr. Adler's traffic
11 analysis. Mrs. Stack indicated that at the period the traffic was conducted she was having
12 work done on her property as well as visitors. She noted that because of the extent of
13 traffic at her property prevailing speed were reduced. She estimated that actual prevailing
14 speeds along Forest Avenue were between 45 and 48 mph. Mrs. Stack also indicated that
15 the traffic volumes do not reflect the increased seasonal traffic associated with the opening
16 of Playland.

17
18 The Commission noted that prevailing speeds likely exceed 38 mph at times, but that the
19 85th percentile speed provided by the applicant appeared acceptable. The City Planner
20 added that the City had done similar traffic studies on other portions of Forest Avenue
21 where prevailing speeds were approximately 37 mph.

22
23 Ty Ralli (Rockridge resident) noted concern with the proposed subdivision and the impact
24 it would have on the character of the neighborhood and the residents of Rockridge Road.
25 Mr. Ralli indicated that the Commission asked the neighbors to address challenging
26 questions with respect to the potential environmental and traffic impacts of the proposed
27 subdivision. Mr. Ralli indicated that the neighbors retained professionals and attorneys at
28 significant cost to provide written studies answering those questions. Mr. Ralli suggested
29 that the reports of the professional consultants regarding the environmental impact of a 3-
30 lot subdivision and the proposed site access drive on Forest Avenue demonstrate that the
31 proposed 3-lot subdivision is inappropriate. Mr. Ralli suggested that the neighbors
32 understand that future development is inevitable but that the appropriate balance between
33 neighbor concerns and the applicant's legal rights would be most responsibly advanced
34 with a 2-lot rather than a 3-lot subdivision.

35
36 Mrs. Hirsch (Rockridge resident) noted concern with the proposed driveway location and
37 the impact that it would have on the character and privacy of the rear yards of properties
38 along Rockridge Road. She indicated that she discussed the proposed subdivision with
39 the Mayor. Mrs. Hirsch recognized the applicant's development rights but stated that the
40 proposed subdivision would have significant aesthetic impacts. Mrs. Hirsch suggested
41 that the recent redevelopment of the City Hall, YMCA, Fire House and Library was only
42 permitted to proceed after a considerable discussion of the aesthetic impact of these
43 improvements. These aesthetic concerns should be addressed by the Commission. Mrs.

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1 Hirsch said that if a driveway is necessary, that it should be located as far from abutting
2 neighbors as possible.

3
4 Mrs. Gardener (Rockridge resident) stated that she moved to Rye in July 2000 based on
5 the charm and character of the community. Mrs. Gardner indicated that since moving into
6 her home that there has been non-stop construction on Rockridge Road and other areas in
7 the City. Mrs. Gardener noted particular concern with the proposed driveway along the
8 rear property line and the potential safety impacts of vehicle and construction traffic for her
9 children.

10
11 Christopher Clark (Manursing Way resident) noted that no formal offer of remediation to
12 address the screening concerns has been provided by the applicant. Mr. Clark reminded
13 the Commission that his property is non-conforming with respect to setbacks and that the
14 proposed subdivision should provide modified building envelopes/easements and
15 additional planting to screen his residence from the proposed subdivision lots. Mr. Clark
16 requested that the planted area be expanded along his property line. The City Planner
17 added that Mr. Clark has provided a letter stating these concerns to the Commission and it
18 is part of the official record. The Commission added that a requirement to install
19 appropriate plant material along perimeter property lines would be considered as part of
20 its review of the subdivision. The Commission discussed with Mr. Clark the conditions of
21 the property and potentially appropriate plant material in this area.

22
23 Mr. Gordon requested that similar screening provisions be provided for neighbors along
24 Rockridge Road.

25
26 Ms. Whitehead responded to the neighbors' comments by indicating that the proposed
27 driveway is not a road as suggested by some neighbors. Ms. Whitehead noted that the
28 driveway would serve two homes, rather than the many homes as typically associated with a
29 roadway. Ms. Whitehead noted that the applicant is willing to provide landscape planting
30 and screening to minimize the impact of the proposed driveway.

31
32 Ms. Whitehead noted that the neighbors' proposal for a 2-lot subdivision would not
33 necessarily result in significant reduction in environmental impact. Ms. Whitehead noted
34 that a comparable amount of development could be provided on two lots as with 3
35 subdivision lots once additional accessory uses and other amenities were provided on a
36 property. Ms. Whitehead suggested that the incremental difference between a 3-lot and 2-
37 lot subdivision is not significant. She added that this would be particularly relevant given
38 that any addition increases in pervious area could be mitigated with appropriate storm
39 water design, erosion control measures and other mitigation measures. Ms. Whitehead
40 reminded the Commission that there is not substantial evidence on the record indicating
41 that a 3-lot subdivision plan would have a significantly greater adverse impact on the
42 environment than a 2-lot subdivision plan. Ms. Whitehead noted that the property is
43 relatively level and relatively free of trees and other natural features.

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Ms. Whitehead challenged the conclusions of Mr. Adler's presentation noting that sight distance along Forest Avenue, the proposed driveway would be acceptable. Ms. Whitehead noted that if a vehicle were setback 5 feet from the edge of the pavement that sight distance would meet acceptable roadway design criteria. Ms. Whitehead noted that a 5-foot setback from the edge of pavement is more consistent with actual driving experience. Ms. Whitehead also added that sight distance at Forest Avenue and Manursing Way is limited and would have to be mitigated in the event that a driveway access to Manursing Way was provided. Ms. Whitehead also noted that the traffic study doesn't not reflect Playland traffic but it also does not reflect the increased seasonal traffic associated with the private membership clubs in the community.

On a motion made by Barbara Cummings, seconded by Peter Larr and carried by the following vote:

AYES: Michael Klemens, Barbara Cummings, Martha Monserrate, , Peter Larr, Franklin Chu

NAYS: None

RECUSED: None

ABSENT: Patrick McGunagle, Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission closed the public hearing.

2. Curry

Chairman Klemens read the public notice.

Linda Whitehead (applicant's attorney) provided an overview of the application, noting that it involved a property located at 6 Dalphin Drive. Ms. Whitehead noted that the application involved a request for Wetland Permit approval to modify and reconstruct an existing residence and to rebuild an existing seawall located along the rear property line. Ms. Whitehead noted that there would be an approximately 805 s.f. increase of impervious area on the site which would be offset by a ratio of 2:1 with landscaped mitigation plantings.

On a motion made by Peter Larr, seconded by Franklin Chu and carried by the following vote:

AYES: Michael Klemens, Barbara Cummings, Martha Monserrate, Peter Larr, Franklin Chu

NAYS: None

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1 RECUSED: None

2 ABSENT: Patrick McGunagle, Hugh Greechan

3
4 the Planning Commission took the following action:

5
6 **ACTION:** The Planning Commission closed the public hearing.

7 8 **3. 111 Sonn Drive**

9
10 Chairman Klemens read the public notice.

11
12 Richard Horsman (applicant's landscape architect) provided an overview of the application
13 noting that it involved Wetland Permit approval for the re-modification and reconstruction of
14 an existing residence located on 11 Sonn Drive and Crescent Place. Mr. Horsman noted
15 that all activities would be located within the 100 ft. wetland buffer. The wetland was
16 located offsite on the opposite side of Crescent Avenue. Mr. Horsman noted that the
17 proposed home would be reconstructed consistent with the City's flood plain management
18 requirements and that the first floor elevation would be 2 feet above the 100-year flood
19 elevation.

20
21 The Commission questioned the height of the first floor elevation. Mr. Horsman responded
22 that the proposed first floor elevation would be approximately 3 feet above grade.

23
24 On a motion made by Peter Larr, seconded by Barbara Cummings and carried by the
25 following vote:

26
27 **AYES:** Michael Klemens, Barbara Cummings, Martha Monserrate, Peter Larr,
28 Franklin Chu

29 **NAYS:** None

30 **RECUSED:** None

31 **ABSENT:** Patrick McGunagle, Hugh Greechan

32
33 the Planning Commission took the following action:

34
35 **ACTION:** The Planning Commission closed the public hearing.

36 37 **3. 1 Macy Street**

38
39 Dave Petro (applicant's architect) provided an overview of the application, which involves a
40 request for site plan approval to expand an existing parking lot on the property. Mr. Petro
41 noted that the applicant was also requesting a reduction in the applicable parking standard
42 for office uses of 10 per 1000 feet of floor area to 5 per 1000 s.f. of floor area. Based on
43 calculations of floor area for all uses on the property a minimum of 169 spaces would be

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1 required based on the reduced parking requirement of 5 spaces per thousand s.f. of floor
2 area. Mr. Petro noted that 181 spaces are proposed.

3
4 The City Planner noted that the application was referred to the Town/Village of Harrison as
5 required by the Westchester County Administrative Code and that such comments had not
6 yet been received. The City Planner advised the Commission to continue the public
7 hearing.

8 9 **ITEMS PENDING ACTION**

10 11 **1. Walker**

12
13 The Commission summarized the public hearing comments regarding the application
14 including the concerns regarding the available sight distance of the proposed driveway on
15 Forest Avenue, the impact of the proposed driveway on adjacent neighbors and the
16 intensity of the proposed subdivision (i.e. whether a two-lot plan is more appropriate than a
17 3-lot plan). The Commission reiterated the recommendations of the CC/AC to avoid a
18 driveway extending to Manursing Way through the 100-foot wetland buffer. The
19 Commission also noted that the City Wetlands Law should avoid wetland buffer
20 disturbance where feasible and practical alternatives exist.

21
22 The Commission noted traffic safety concerns with the sight distance of a driveway on
23 Manursing Way. The Commission discussed Mr. Adler's report, which confirmed sight
24 distance limitations at this location. The Commission discussed measures to improve
25 traffic safety and sight distance limitations for the proposed driveway on Forest Avenue.
26 The Commission suggested removing the existing shrub/vegetation near the proposed
27 driveway to improve sight distance. The Commission also considered shifting the
28 driveway to avoid potential conflicts with driveway opposite the site on the Stack property.
29 Mrs. Stack indicated that she was contemplating relocating her driveway, but that such
30 plans were not finalized. The Commission also discussed possibly consolidating curb-cuts
31 by having the existing driveway on the Walker property eliminated and incorporated with
32 the proposed driveway. Ms. Whitehead (applicant's attorney) noted that she would
33 consider eliminating the existing driveway and shifting the driveway from the property line
34 to create an additional buffer for Rockridge Road residents.

35
36 The Commission discussed the intensity of the proposed subdivision, noting that it involved
37 a three-lot subdivision exceeding the minimum requirements of the R-1 Residence District.
38 The Commission noted that the intensity of use was considerably less than the existing
39 density of the Rockridge Road neighborhood, which is in the R-3 District. The
40 Commission noted that it was inclined to approve the applicant's 3-lot proposal, but that
41 mitigation measures (such as landscaping and modified building envelopes) would be
42 implemented to address neighbor concerns.

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1 The Commission discussed the previously considered northern driveway alignment. Ms.
2 Whitehead responded that it was her impression that after the Commission's second site
3 inspection that the Commission preferred the proposed southern driveway alignment. Ms.
4 Whitehead stated that a driveway on the north side of the property would come very close
5 to the existing residence, which was not desirable. She also noted that sight distance on
6 Forest Avenue was poor in this location and would require the removal of a significant
7 amount of vegetation. The City Planner questioned the Rockridge neighbors as to why
8 they have not suggested a northern driveway alignment given the Commission's stated
9 concerns about extending a driveway to Manursing way and the apparent reduction in
10 neighbor impacts. Mr. Ty Ralli responded that the neighbors of Rockridge did not want
11 antagonize neighbors abutting the northern property line and pin one neighborhood against
12 another.

13
14 The Commission requested that the applicant provide a revised subdivision plan that
15 considered modifications in the driveway configuration and site access. The Commission
16 also requested that the revised plan include modified building envelopes and landscape
17 plantings along perimeter property lines to provide additional building setbacks and
18 screening from neighbors.

2. Curry

19
20
21
22 The Commission discussed the proposed plan noting that it had been revised as
23 requested to remove all fill from the 100-year flood zone. The Commission also reviewed
24 the sediment and erosion control measures with the applicant.

25
26 On a motion made by Peter Larr, seconded by Martha Monserrate and carried by the
27 following vote:

28
29 AYES: Michael Klemens, Barbara Cummings, Martha Monserrate, Peter Larr,
30 Franklin Chu

31 NAYS: None

32 RECUSED: None

33 ABSENT: Patrick McGunagle, Hugh Greechan

34
35 the Planning Commission took the following action:

36
37 **ACTION:** The Planning Commission approved the application.

3. 111 Sonn Drive

38
39
40
41
42 The Commission discussed with Richard Horsman (applicant's landscape architect) the
43 compliance of the proposed residence with the City's Floodplain Management Law. Mr.

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Horsman noted that the first floor elevation would be two feet above the 100-year flood zone elevation, which would be approximately three feet above the finished grade. Mr. Horsman noted that there would not be an increase in fill in the flood zone and that flood waters would be designed to enter the basement garage. There would be no habitable space or mechanical equipment below the flood zone.

The Commission discussed the proposed plant material on the landscape mitigation plan noting that one of the proposed plants may be invasive. Mr. Horsman responded that the proposed plant variety is "dwarf" and would not be invasive, but that he would consider amending the planting list.

On a motion made by Peter Larr, seconded by Martha Monserrate and carried by the following vote:

AYES: Michael Klemens, Barbara Cummings, Martha Monserrate, , Peter Larr, Franklin Chu

NAYS: None

RECUSED: None

ABSENT: Patrick McGunagle, Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission approved the application.

4. 1 Macy Street

The Commission discussed (and provided the applicant with a copy) of the comments of Westchester County Department of Planning including the limited amount of screening along Macy Street and the lack of a stormwater management plan.

Dave Petro (applicant's architect) provided a plan and photos showing the location of the proposed parking lot expansion relative to Macy Street. Mr. Petro noted that the plan shows that approximately 15 to 25 feet of landscape buffer within the road right-of-way would remain and serve as screening. Mr. Petro also added that plant material would be provided to enhance screening and that the visibility of the parking lot would be minimized by the fact that the lot would be at a lower elevation than the adjacent Macy Street.

The Commission discussed the need for the parking lot expansion and whether its size could be reduced to address screening and stormwater management concerns. The applicant responded that on-site parking is severely limited and that recent changes in parking enforcement by the Town of Harrison made on street parking impractical due to the issuance of tickets. On-street parking is limited to three hours and the applicant's

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1 employees have been denied parking permits at the recently expanded Metro-North
2 parking lot.

3
4 The applicant noted that he recently acquired the property and negotiated an agreement
5 with the tennis club tenant to provide additional parking. The right to make such
6 improvement did not exist with the previous owners of the property. The City Planner noted
7 that the proposed amount of parking is less than the minimum requirements of the Zoning
8 Code and would require the Commission to authorize a parking reduction. The applicant
9 stated that the office has approximately 180 employees, which conduct a back office
10 operation. Many employees commute to work by train from New York City.

11
12 The Commission discussed the need for the applicant to provide a stormwater
13 management plan that addresses both water quantity and quality concerns. The
14 Commission noted that it would consider a detention/retention basin within the 100-foot
15 wetland buffer if properly designed demonstrated to have water quality benefits. The
16 Commission stated that a basin design would need to consider retrofitting the existing oil
17 tank to provide a containment system.

18
19 The Commission agreed to tentatively set a public hearing for its next meeting, provided
20 the applicant could provide the Commission with revised plans within a week.

21 22 **5. 195 Grace Church Street**

23
24 The Commission discussed the deed and other legal information provided by Ms.
25 Whitehead (applicant's attorney) regarding the subject property and whether it was a
26 separate building lot. Ms. Whitehead stated that 195 and 205 Grace Church Street have
27 been in common ownership, but have always maintained separate deeds. The two
28 properties were part of separate subdivisions. The Commission noted some concern with
29 the deeds and questioned Ms. Whitehead's legal opinion. Ms. Whitehead stated that it
30 was her recollection that this issue was referred to the City's Corporation Counsel, which
31 determined that 195 Grace Church Street is a separate building lot. The Commission
32 agreed that this issue was previously reviewed and addressed.

33
34 The Commission discussed the comments of the CC/AC in their most recent letter to the
35 Commission. The CC/AC objected to the proposed wetland permit. The Commission
36 discussed each of the CC/AC objections and provided a rationale responding to each
37 objection. The comments and findings of the Commission were incorporated into the
38 resolution of approval.

39
40 Joe Murphy questioned whether approving the proposed wetland permit would set a
41 precedent for other applications. The Commission noted that it felt obligated to approve
42 something on the property given that it was a separate building lot and that it had avoided

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wetland impacts to the maximum extent practical. It would not set a precedent given the unique circumstances of the property.

The Commission discussed the proposed mitigation plan and questioned the applicant's environmental consultant.

On a motion made by Peter Larr, seconded by Franklin Chu and carried by the following vote:

AYES: Michael Klemens, Barbara Cummings, Martha Monserrate, , Peter Larr, Franklin Chu

NAYS: None

RECUSED: None

ABSENT: Patrick McGunagle, Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission approved the application.

6. Rye Veterinary Hospital

On a motion made by Franklin Chu, seconded by Martha Monserrate and carried by the following vote:

AYES: Michael Klemens, Barbara Cummings, Martha Monserrate, , Peter Larr, Franklin Chu

NAYS: None

RECUSED: None

ABSENT: Patrick McGunagle, Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission set a public hearing for the May 27, 2003 meeting.

7. 23-25 Purchase Street

On a motion made by Peter Larr, seconded by Franklin Chu and carried by the following vote:

AYES: Michael Klemens, Barbara Cummings, Martha Monserrate, , Peter Larr, Franklin Chu

NAYS: None

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1 RECUSED: None

2 ABSENT: Patrick McGunagle, Hugh Greechan

3

4 the Planning Commission took the following action:

5

6 **ACTION:** The Planning Commission set a public hearing for the May 27, 2003
7 meeting.

8

9 **8. Beechwind Properties**

10

11 The Commission noted that due to the late hour of the meeting that it would not be able to
12 discuss this matter.

13

14 **9. Ann Lane Subdivision**

15

16 The Commission noted that due to the late hour of the meeting that it would not be able to
17 discuss this matter.

18

19

20